IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

WP(C).No. 31040 of 2007(T)

PETITIONER:

K.R.SHANMUHA SUNDARAM,
HINDU, RETIRED CUSTOMS OFFICER, DOOR NO.31/243,
VADAKKANTHARA ROAD, PALAKKAD-678 012.

BY ADV. SRI.LEGY ABRAHAM

RESPONDENTS:
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1. SESHADRI, S/O. GANAPATHY IYER,
LAKE RANGE FLAT NO.4, 1ST FLOOR, CALCUTTA-26.

2. G.LAKSHMI, D/O. GANAPATHY IYER,
109/10, CHAITHANYA, JAYAPRAKASH NAGAR,
GOREASON EAST, BOMBAY-61.

3. G.JANAKI, D/O. GANAPATHY IYER,
M.F. 5/9 E BLOCK, NANDINI LAY OUT, BANGALORE.

4. G.SUNDARAM, S/O. GANAPATHY IYER,
L 7 BRINDAVAN ESTATE, PASHADHAI PATEL PARK,
BEHIND RACE COURSE ROAD, BARODA.

5. VENUGOPAL, S/O. GANAPATHY IYER,
BLOCK D, GOKULAM, 1ST FLOOR, BOMBAY.

6. G.NATARAJAN, S/O. GANAPATHY IYER,
A 6 FLAT NO.103, SREE COMPLEX, ADHANWADI,
KALYAN WEST, THANE.

7. G.BALASUBRAMANIAN, S/O. GANAPATHY IYER,
P.B.NO.3971, DUBAI, U.A.E.

8. G.RADHAKRISHNAN, S/O. GANAPATHY IYER,
FLAT NO.4, PLOT 32, RAMAMOORTHY STREET,
THANDAVAMOORTHY NAGAR, VALSURAVAKKAM, CHENNAI.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.31040 OF 2007

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Dated this the 17th day of October 2007

JUDGMENT

This writ petition is filed for a direction to call for the records in E.P.No.27 of 2001 in O.s.No.34 of 1978 and quash the same.

2. Heard the learned counsel for the petitioner. It is submitted that the petitioner is a stranger to the decree and the execution cannot be proceeded further with. When a valuable right of an individual is attempted to be taken away, the Code of Civil Procedure has contemplated provisions for approaching the court. The Apex Court has even held that one need not have to wait till dispossession for the purpose of approaching the court for redressal of the grievance. Without resorting to any legal provisions, the petitioner has directly come to the High Court with a prayer to quash the execution proceedings, it cannot be entertained.

Therefore, the writ petition is dismissed. I make it very clear that the dismissal of the writ petition will not stand in the way of the petitioner

pursuing the remedies prescribed by law.

M.N.KRISHNAN, JUDGE

Cdp/-